

1 granted," or "seeks monetary relief from a defendant who is immune from such
2 relief." Id. § 1915A(b). Pro se pleadings must be liberally construed, however.
3 Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

4 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two
5 elements: (1) that a right secured by the Constitution or laws of the United States
6 was violated, and (2) that the alleged violation was committed by a person acting
7 under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

8 B. Legal Claims

9 The failure of prison officials to protect inmates from attacks by other
10 inmates violates the Eighth Amendment only when two requirements are met:
11 (1) the deprivation alleged is, objectively, sufficiently serious; and (2) the prison
12 official is, subjectively, deliberately indifferent to inmate safety. Farmer v.
13 Brennan, 511 U.S. 825, 834 (1994). A prison official is deliberately indifferent
14 only if he knows that a prisoner faces a substantial risk of serious harm and
15 disregards that risk by failing to take reasonable steps to abate it. Id. at 837.
16 Negligence is not enough to establish liability under the Eighth Amendment. Id.
17 at 835-36 & n. 4. An "official's failure to alleviate a significant risk that he
18 should have perceived but did not, cannot under our cases be condemned as the
19 infliction of punishment." Id. at 838.

20 Plaintiff's allegation that an unnamed jail officer "negligent[ly]" ignored
21 his unexplained request for protective custody is not enough to state a § 1983
22 claim for deliberate indifference to safety. Plaintiff will be afforded an
23 opportunity to amend and, if possible, allege facts showing that the officer knew
24 that plaintiff faced a substantial risk of serious harm and disregarded that risk by
25 failing to take reasonable steps to abate it. Plaintiff also must name the officer as
26 a defendant and allege facts showing how the officer's wrongdoing caused the
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deprivation of plaintiff's constitutional rights. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988). The County of Monterey and MCJ cannot be held liable under § 1983 simply on the theory they are responsible for the actions or omissions of its employees. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989).¹


CONCLUSION

For the foregoing reasons, the complaint is dismissed with leave to amend, as indicated above, within 30 days of this order. The pleading must be simple and concise and must include the caption and civil case number used in this order and the words FIRST AMENDED COMPLAINT on the first page. Failure to file a proper amended complaint within the designated time will result in the dismissal of this action.

Plaintiff is advised that the amended complaint will supersede the original complaint and all other pleadings. Claims and defendants not included in the amended complaint will not be considered by the court. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987).

SO ORDERED.

DATED: Sept. 19, 2007


 CHARLES R. BREYER
 United States District Judge

¹To impose municipal liability under § 1983 for a violation of constitutional rights, a plaintiff must show: (1) that the plaintiff possessed a constitutional right of which he or she was deprived; (2) that the municipality had a policy; (3) that this policy amounts to deliberate indifference to the plaintiff's constitutional rights; and (4) that the policy is the moving force behind the constitutional violation. See Plumeau v. School Dist. #40 County of Yamhill, 130 F.3d 432, 438 (9th Cir. 1997).